

EXHIBIT C

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

AMAZON.COM, INC., a corporation.

Defendant.

Case No. No. 2:23-cv-01495-JHC

[AMAZON'S PROPOSED] ORDER REGARDING REMOTE DEPOSITIONS

Plaintiffs Federal Trade Commission and the states and territories of New York, Connecticut, New Hampshire, Oklahoma, Pennsylvania, Delaware, Maine, Maryland, Massachusetts, Michigan, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Puerto Rico, Rhode Island, Vermont, and Wisconsin, acting by and through their respective Attorneys General (“Plaintiffs”) having filed a Joint Motion for an Order Regarding Remote Depositions (“Motion”), and the Court having considered all papers filed in support and in opposition of the Motion, including all filings and memoranda of law concerning this matter, the Motion is GRANTED. Accordingly, the Court orders the following protocol regarding depositions in this matter:

Pursuant to Federal Rule of Civil Procedure 29(a), the parties agree to and the Court orders the following protocol regarding depositions in this matter:

1 **A. General Principles:**

2 The Federal Rules of Civil Procedure, Local Civil Rules of the Western District of
 3 Washington, this Court's Order re Deposition Limits (Dkt. # 166), and this Court's other orders,
 4 rules, and procedures (collectively, the "Rules"), shall govern depositions in this action except
 where the provisions contained herein alter or supplement the Rules.

5 **B. Deposition Format:**

6 ~~The~~Consistent with Federal Rule of Civil Procedure 30(b)(4), depositions ~~off~~for all
 7 ~~witnesses~~ ~~in this case~~located within the United States shall ~~be conducted by a remote~~
 8 ~~videoconference platform at the election of the noticing party~~occur in person unless ~~otherwise~~
 9 ~~agreed by all the~~ Parties and the ~~deponent~~. If a non party has been cross noticed for deposition
 10 ~~by the parties and the parties disagree about whether~~witness agree to proceed ~~by either~~ (i)
 11 entirely by remote means (a "virtual deposition, ~~the preference of the deponent~~") or (ii) in a
 12 manner that allows counsel to participate by remote means (a "hybrid deposition"). For
 13 witnesses residing outside the United States, depositions shall ~~prevail. For any~~proceed as a
 14 virtual deposition ~~that proceeds in person, a videoconference platform will be available for~~
parties who chose to participate remotely unless the witness requests that the deposition proceed
in person.

15 **C. Procedures Applicable to Virtual and Hybrid Depositions**16 **1. Place of Examination:**

17 As used in Fed. R. Civ. P. 28(a)(1)(A), the "place of examination" is the location of the
 18 deponent.

19 **2. Other Recording:**

20 No participant other than the court-reporting agency and videographer (after appropriate
 21 notice) may record by video, photograph, or audio any of the proceedings. This shall include
 22 recording using any form of virtual transmitting device, computer recording device, laptops,
 23 camera, and personal device, including smart phones, tablets, iPads, Androids, iPhones, or other

1 PDAs. Nothing in this provision prevents or limits the taking of notes by those identified on the
 2 record.

3 **3. Conduct of Deponent.**

4 While on the record the deponent will not use any communication device other than those
 5 to facilitate the deposition. While on the record, the deponent will not privately confer with
 6 anyone between a question and an answer except for the purpose of determining the existence
 7 and questions of privilege. This Orderstipulation does not govern the conduct of anyone while
 not on the record.

8 **4. Contact with the Deponent During a Virtual Deposition.**

9 While on the record, no one will communicate with the deponent outside of the
 10 video/audio stream. This includes, but is not limited to, instant messaging, text messaging, or any
 11 equivalent. In the event any such communications occur, suehthe parties agree that the
 communications are discoverable.

12 **5. Identification of Individuals in Attendance.**

13 Every person attending the deposition shall be identified on the record at the
 14 commencement of the deposition or upon later entry permitted by the court reporter. Persons
 15 attending by telephone must identify themselves by name and by telephone number. Under no
 16 circumstances may persons attend the deposition virtually in any manner without identifying
 17 themselves on the record at the commencement of the deposition or when admitted later by the
 court reporter.

18 **6. Conduct by Participants Appearing Virtually.**

19 In addition to the provisions set forth above, each participant should attend from a quiet
 20 location. All attendees other than the deponent, court reporter, deposing attorney, and objecting
 21 attorney will set their audio connection to mute to avoid unintentional noise.

22 **7. Use of Deposition Testimony.**

23 Testimony given during a virtual or hybrid deposition may be used to the same extent
 24 that in-person deposition testimony may be used consistent with the Rules. The Parties expressly

1 waive all objections to the admissibility of any testimony given during a virtual or hybrid
 2 deposition based solely on the fact that it was given at a virtual or hybrid deposition. Testimony
 3 given during a virtual or hybrid deposition, including both the transcript and video record, if any,
 4 may be used at a trial, at hearings, in motions, or in other modes in these proceedings to the same
 5 extent that in-person deposition testimony may be used at trial, at hearings, in motions, or in
 other modes in this proceeding.

6 **Objections**

7 ~~Any objections to proceeding with a virtual deposition shall be raised promptly after
 receipt of the deposition notice. In the case of a non party witness that has been subpoenaed prior
 to the entry of this Order, such objections shall be raised promptly after receipt of this Order. In
 the event that one or more such objections are raised, the parties, and any non party witness, if
 applicable, shall meet and confer to resolve the objection(s) before seeking relief from the Court,
 in the case of a party, or, in the case of a nonparty, before the court where compliance is required
 pursuant to Fed. R. Civ. P. 45(d). If the parties and the non party witness (if applicable) cannot
 resolve the dispute, then the party or non party seeking an in person deposition shall move the
 Court for good cause to do so and the deposition shall proceed as noticed absent an order from
 the Court.~~

17 **D. Procedures Applicable Only to Virtual Depositions.**

18 **8.1. Court Reporter and Videographer.**

19 A court reporter may administer an oath concerning a virtual deposition. The Parties
 20 shall agree not to challenge the validity of any oath administered by the court reporter, even if the
 court reporter is not a notary public in the state where the deponent resides. The parties stipulate,
 21 in accordance with Federal Rules of Civil Procedure, that the court reporter or videographer (if
 noticed) may participate in the virtual deposition, and that the deposition will be deemed to have
 23 been conducted “before” that officer, even though the officer is not physically present with the
 24

1 deponent, so long as that officer is able to identify the deponent. The court reporter will at all
2 times have access to the same interface as the witness.

3 **9.2. Physical Presence with Deponent.**

4 For virtual depositions, the only people permitted in the same room as the deponent are
5 attorneys representing the deponent. The deponent and each attorney will each have their own
6 computer with camera, and individual or shared audio feeds via microphone or telephone.

7 **10.3. Technology Requirements.**

8 All virtual depositions will be stenographically recorded by a court reporter with real-
9 time feed capabilities. The deponent, the attorney defending the deponent, and the attorney for
10 any Party questioning the deponent must have a webcam-equipped device (such as a desktop,
11 laptop, or tablet), and a device with audio-capabilities or access to a telephone for calling into the
12 deposition, and will allow themselves to be seen and heard at all times while on the record.

13 Unless directed otherwise by the court reporter, all other attendees will turn video off such that
14 their names appear instead of their images (but they may view the video feed of the deposition).

15 Before proceeding with a remote deposition, the deponent or their counsel shall confirm that the
16 deponent has access to the required equipment on the day of the deposition and that any
17 equipment checks or tests (as instructed by the deposition services vendor) have been completed
18 prior to the deposition.

19 **11.4. Exhibits.**

20 All virtual depositions shall be conducted using a technology platform that allows for the
21 electronic marking and sharing of exhibits. The technology platform for exhibits should allow
22 the deponent to increase the size of the exhibit and scroll through a multi-page exhibit so that the
23 deponent may review the entire document. Alternatively, at the discretion of any Party
24 questioning the deponent, such Party may transmit each exhibit, either in advance of the
deposition or as each exhibit is introduced, to the court reporter, the deponent, the attorney
defending the deponent, and any other counsel appearing on the record at the deposition, via
email or file-sharing link. If the exhibits are transmitted in advance of the deposition, any person

1 receiving said exhibits agrees not to open or review the exhibits except at the direction of the
 2 attorney questioning the witness. Any copies of exhibits electronically downloaded but not used
 3 at the deposition are courtesy copies and shall be destroyed immediately after the conclusion of
 4 the virtual deposition.

5 **12.5. Disruptions.**

6 In the event the video feed for the deponent, the attorney defending the deponent, the
 7 attorney questioning the deponent, is interrupted or otherwise becomes hidden from view, the
 8 deposition will be suspended. The deposition will resume only when all video streams have been
 9 restored. If the video feed of the attorney defending the deponent or the attorney questioning the
 10 deponent is interrupted, that attorney may request that any portion of the virtual deposition that
 11 was transcribed while they were disconnected be re-read, and that they be provided an
 12 opportunity to object to any questions or answers that occurred in their absence. Disruptions due
 13 to video streaming, phone line interruption, or other technical problems shall not be counted
 14 against record time. Should technical issues materially interfere with the parties' ability to take
 15 any deposition pursuant to this OrderStipulation on the scheduled date and such technical issues
cannot be remedied in a timely manner, the Parties shall meet, confer, and reasonably cooperate
with one another and the witness to reschedule the deposition.

16 **E. Procedures Applicable Only to Hybrid Depositions.**

17 **1. Technology Requirements.**

18 All hybrid depositions shall have a live video feed of the deponent, as well as a live audio
feed of the deponent, the attorney questioning the deponent, and the attorney defending the
deponent, made available to any attorney for a Party who attends the deposition by remote
means.

21 **2. Exhibits.**

22 All hybrid depositions shall be conducted using a technology platform that allows for the
electronic marking and sharing of exhibits by any attorney for a Party that attends the deposition
and questions the deponent by remote means. The technology platform for exhibits should allow

1 the deponent to increase the size of the exhibit and scroll through a multi-page exhibit so that the
 2 deponent may review the entire document. Alternatively, at the discretion of any Party
 3 questioning the deponent, such Party may transmit each exhibit, either in advance of the
 4 deposition or as each exhibit is introduced, to the court reporter, the deponent, the attorney
 5 defending the deponent, and any other counsel appearing on the record at the deposition via
 6 email or file-sharing link. If the exhibits are transmitted in advance of the deposition, any person
 7 receiving said exhibits agrees not to open or review the exhibits except at the direction of the
 8 attorney questioning the witness. Any copies of exhibits electronically downloaded but not used
 9 at the deposition are courtesy copies and shall be destroyed immediately after the conclusion of
the virtual deposition.

10 3. Disruptions.

11 In the event the video feed for an attorney questioning the deponent by remote means is
 12 interrupted, the deposition will be suspended. The deposition will resume only when the video
 13 streams has been restored. The attorney questioning the deponent may request that any portion of
 14 the virtual deposition that was transcribed while they were disconnected be re-read, and that they
 15 be provided an opportunity to object to anything that occurred in their absence. Disruptions due
 16 to video streaming, phone line interruption, or other technical problems shall not be counted
 17 against record time. Should technical issues materially interfere with the parties' ability to take
any deposition pursuant to this Stipulation on the scheduled date and such technical issues cannot
 18 be remedied in a timely manner, the Parties shall meet, confer, and reasonably cooperate with
 19 one another and the witness to reschedule the deposition.

20 D.F. Other Provisions

21 1. Costs.

22 Noticing counsel is responsible for retaining, and covering the cost of the court reporter,
 23 videographer, and any other vendor retained to assist with any deposition. For any non-party
 24 depositions where the Parties have noticed a deposition for the same day, the Parties will meet
 and confer regarding which vendor(s) to use. Plaintiffs and Amazon will split the costs evenly

1 for the deposition services that both sides request. Each Party will bear its own costs for copies
 2 of transcripts, copies of video recordings of any deposition, and any other unique services
 3 obtained by a Party.

4 **2. Notice to Non-Parties.**

5 This OrderStipulation shall be provided to any non-party witness or such non-party
 6 witness's counsel concurrently with the service of any subpoena that requests a virtual
 7 deposition, and the deposition shall proceed by remote means only if said non-party agrees to the
provisions of this Stipulation.

8 **3. Modifications.**

9 The parties may modify the provisions of this OrderStipulation as they apply to an
 10 individual deposition by the agreement of all parties.

11
 12 **[PROPOSED] ORDER**

13 IT IS SO ORDERED

14 Dated this _____ day of _____, 2024

15
 16 JOHN H. CHUN
 17 UNITED STATES DISTRICT JUDGE

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 19
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